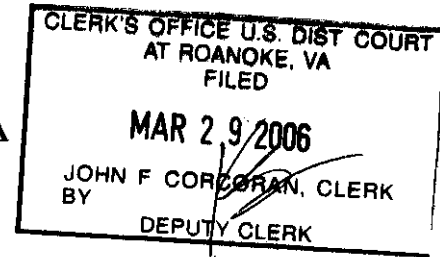


IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION



RAY WASHINGTON, JR.,
Petitioner,

v.

TERRY O'BRIEN,
Respondent.

Civil Action No. 7:06CV00116

ORDER

By: Hon. Jackson L. Kiser
Senior United States District Judge

For the reasons stated in the accompanying memorandum opinion, it is now

ORDERED

as follows:

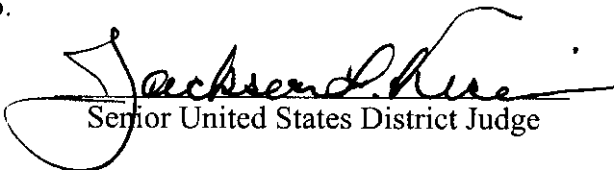
1. Washington's motion to alter or amend judgment, pursuant to Rule 59(e) of the Federal Rules of Civil Procedure, shall be and hereby is **GRANTED**.
2. The court's previous opinion and order dismissing Washington's petition for writ of habeas corpus under 28 U.S.C. § 2241, sua sponte, shall be and hereby are **VACATED**.
3. The petition shall be **REINSTATED** on the court's active docket.
4. Inasmuch as the petitioner has not applied to proceed in forma pauperis or prepaid the \$5.00 filing fee, the petitioner is directed to execute the enclosed consent to withholding of fees from his inmate account. **FAILURE TO RETURN THE ATTACHED CONSENT FORM TO THE COURT OR TO PAY THE \$5.00 FILING FEE WITHIN TWENTY (20) DAYS SHALL RESULT IN THE DISMISSAL OF THIS ACTION WITHOUT PREJUDICE.** In the alternative, the petitioner may complete the attached application to proceed in forma pauperis, including an appropriate statement of assets, pursuant to 28 U.S.C. §1914(a)(1). If

the court grants the petitioner's application to proceed in forma pauperis, the petitioner will not be required to pay the fee.

5. Once the petitioner has signed and returned the consent form or otherwise made arrangements regarding the filing fee, the Clerk shall attempt service of process in the usual manner on the respondent.
6. The petitioner shall notify the court immediately upon his transfer or release and shall provide a new address. FAILURE TO NOTIFY THE COURT OF SUCH A CHANGE WILL RESULT IN THE DISMISSAL OF THIS ACTION.
7. Pursuant to the Standing Order of Court entered February 2, 2004, all non-dispositive matters in this case are referred to the Hon. Michael F. Urbanski, United States Magistrate Judge (See Appendix).

The Clerk is directed to send certified copies of this order, the appendix, and the accompanying memorandum opinion to the petitioner and counsel of record for the respondent.

ENTER: This 29th day of March, 2006.


Senior United States District Judge

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA**

IN RE: FILING AND PROCESSING)	
PRISONER CIVIL RIGHTS CASES)	STANDING ORDER OF REFERENCE
AND PETITIONS FOR WRITS OF)	
HABEAS CORPUS)	

In furtherance of a more centralized system for processing prisoner civil rights cases and petitions for writs of habeas corpus, it is now ORDERED that all such cases will be routinely referred to United States Magistrate Judge Michael F. Urbanski for purposes of consideration and ruling as to any and all nondispositive, pretrial matters and motions as may arise. This order is entered under the authority of 28 USC § 636(b)(1)(A), and the provisions set forth thereunder shall govern the magistrate judge's conduct and scope of authority.

For purposes of the Order, the terms prisoner civil rights cases and petitions for writs of habeas corpus shall be deemed to include the following:

- a. Civil rights complaints filed pursuant to 42 USC § 1983;
- b. civil rights complaints filed pursuant to 28 USC § 1331 (*Bivens* actions);
- c. habeas corpus petitions filed pursuant to 28 USC § 2241 (federal habeas);
- d. habeas corpus petitions filed pursuant to 28 USC § 2254 (state habeas);
- e. habeas corpus petitions filed pursuant to 28 USC § 2255 (federal habeas).

This Standing Order supercedes all prior orders of reference in prisoner civil rights cases and petitions for writs of habeas corpus entered by this court.

The clerk is directed to enter this Standing Order in the order book for each division of this court and to associate a copy of this Order with filings as outlined above to all parties in all cases.

ENTER: This 2nd day of February, 2004.

FOR THE COURT:

/s/ Samuel G. Wilson
Samuel G. Wilson
Chief U.S. District Judge

INMATE CONSENT FOR WITHHOLDING OF INCOME
FOR ASSESSED FILING FEE

RAY WASHINGTON, JR.,
Petitioner,

Civil Action No. 7:06-cv-00116

v.

CONSENT TO FEE

TERRY O'BRIEN,
Respondent.

I, **Ray Washington, Jr., #54122-083**, hereby consent for the appropriate prison officials to withhold from my prison account a payment of **\$5.00** dollars or if not possible to collect the \$5.00 in full initially, to collect on a continuing basis each month, an amount equal to 20% of each prior month's income, until such time as the filing fee of \$5.00 has been collected in full. Upon collection, the Trust Officer shall forward the payment to the Clerk's Office, U. S. District Court, P. O. Box 1234, Roanoke, VA 24006, until such time as the fees are paid in full. By executing this document, I also authorize withholding of any amount of costs, sanctions, and/or fees which may be imposed by the Court as a result of or during this litigation.

SIGNATURE OF PETITIONER

(For Trust Accounts Officer Use)

BALANCE DUE (Not to exceed \$5.00)	AMOUNT WITHHELD	MONTH WITHHELD	PRIOR MONTHS INCOME
\$5.00			

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

(Petitioner)

STATEMENT OF ASSETS

vs.

(Respondent)

I, _____, declare that I am the petitioner in the above-styled proceeding; that in support of my request to proceed without being required to prepay fees, costs or give security therefor, I state that because of my poverty, I am unable to pay the costs of said proceeding, or give security therefor; that I believe I am entitled to relief.

In support of my in forma pauperis application, I answer the following questions:

1. Are you presently employed? _____ Yes _____ No

If yes, what is your monthly income? _____

If no, state the date of your last employment. _____

2. Have you received any money in the last twelve months from the following sources?

Business, Profession, Self-Employment:	_____ Yes	_____ No
Rent Payments, Interest or Dividends:	_____ Yes	_____ No
Pensions, Annuities or Life Insurance:	_____ Yes	_____ No
Gifts or Inheritances:	_____ Yes	_____ No
Any Other Sources:	_____ Yes	_____ No

If the answer to any of the above is Yes, please state the source and amount of each received during the past year.

3. Do you own any cash, or have any money on hand - Include any funds held in Prison Accounts.

_____ Yes _____ No If Yes, State the Value _____

4. Do you own any real estate, stocks, bond, notes, automobiles or other valuable property - (excluding clothing and ordinary household furnishings)?

_____ Yes _____ No If Yes, State the Value _____

5. List the persons who are dependant upon you for support. State your relationship to same and indicate how much you contribute toward their support.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: _____ **SIGNED:** _____